

deny a request for a waiver of fees that does not include:

(A) A clear statement of the requester's interest in the requested documents;

(B) The use proposed for the documents and whether the requester will derive income or other benefit from such use;

(C) A statement of how the public will benefit from such use and from the release of the requested documents; and

(D) If specialized use of the documents or information is contemplated, a statement of the requester's qualifications that are relevant to the specialized use.

(iii) *Burden of proof.* In all cases the burden shall be on the requester to present evidence or information in support of a request for a waiver of fees.

(5) *Fees for nonproductive search.* Fees for record searches and review may be charged even if not responsive documents are located or if the request is denied, particularly if the requester insists upon a search after being informed that it is likely to be nonproductive or that any records found are likely to be exempt from disclosure. The Records Manager shall apply the standards set out in paragraph (c)(4) of this section in determining whether to waive or reduce fees.

APPENDIX A TO §1662.6—FREEDOM OF INFORMATION FEE SCHEDULE

Duplication:

Photocopy, per standard page\$10
Paper Copies of microfiche, per frame
.....\$10

Search and review:

Salary of the employee (the basic rate of pay of the employee plus 16 percent of that rate to cover benefits), performing the work of manual search and review.

Computer search and production:

For each request the Records Manager will separately determine the actual direct costs of providing the service, including computer search time, tape or printout production, and operator salary.

Special services:

The Records Manager may agree to provide and set fees to recover the costs of special services not covered by the Freedom of Information Act, such as certifying records or in-

formation, packaging and mailing records, and sending records by special methods such as express mail. The Records Manager may provide self-service photocopy machines and microfiche printers as a convenience to requesters and set separate perpage fees reflecting the cost of operation and maintenance of those machines.

Fee waivers:

For qualifying educational and non-commercial scientific institution requesters and representatives of the news media the Records Manager will not assess fees for review time, for the first 100 pages of reproduction, or, when the records sought are reasonably described, for search time. For other noncommercial use requests no fees will be assessed for review time, for the first 100 pages of reproduction, or for the first two hours of search time.

The Records Manager will waive in full fees that total less than \$1.00 or that are less than the average cost of collecting fees.

The Records Manager will also waive or reduce fees, upon proper request, if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the System and is not primarily in the commercial interest of the requester.

[52 FR 13665, Apr. 24, 1987]

PART 1665—PRIVACY ACT PROCEDURES

Sec.

- 1665.1 Rules for determining if an individual is the subject of a record.
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- 1665.4 Requests to amend records.
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- 1665.7 Information available to the public or to former employers of registrants.
- 1665.8 Systems of records exempted from certain provisions of this act.

AUTHORITY: 5 U.S.C. 552a.

SOURCE: 47 FR 7224, Feb. 18, 1982, unless otherwise noted.

§ 1665.1 Rules for determining if an individual is the subject of a record.

(a) Individuals desiring to know if a specific system of records maintained by the Selective Service System (SSS) contains a record pertaining to them should address their inquiries to the Selective Service System, ATTN:

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Records Manager, Public & Intergovernmental Affairs, Arlington, VA 22209-2425. The written inquiry should contain a specific reference to the system of records maintained by Selective Service listed in the SSS Notices of Systems of Records or it should describe the type of record in sufficient detail to reasonably identify the system of records. Notice of SSS Systems of Records subject to the Privacy Act is in the FEDERAL REGISTER and copies of the notices will be available upon request to the records manager. A compilation of such notices will also be made and published by the Office of Federal Register, in accord with section 5 U.S.C. 552a(f).

(b) At a minimum, the request should also contain sufficient information to identify the requester in order to allow SSS to determine if there is a record pertaining to that individual in a particular system of records. In instances when the information is insufficient to insure that disclosure will be to the individual to whom the information pertains, in view of the sensitivity of the information, SSS reserves the right to ask the requester for additional identifying information.

(c) Ordinarily the requester will be informed whether the named system of records contains a record pertaining to the requester within 10 days of receipt of such a request (excluding Saturdays, Sundays, and legal federal holidays). Such a response will also contain or reference the procedures which must be followed by the individual making the request in order to gain access to the record.

(d) Whenever a response cannot be made within the 10 days, the records manager will inform the requester of the reason for the delay and the date by which a response may be anticipated.

[47 FR 7224, Feb. 18, 1982; 69 FR 1525, Jan. 9, 2004]

§ 1665.2 Requests for access.

(a) Requirement for written requests. Individuals desiring to gain access to a record pertaining to them in a system of records maintained by SSS must submit their request in writing in accord with the procedures set forth in paragraph (b) below.

(b) *Procedures*—(1) *Content of the request.* (i) The request for access to a record in a system of records shall be addressed to the records manager, at the address cited above, and shall name the system of records or contain a description of such system of records. The request should state that the request is pursuant to the Privacy Act of 1974. In the absence of specifying solely the Privacy Act of 1974 and, if the request may be processed under both the Freedom of Information Act and the Privacy Act and the request specifies both or neither act, the procedures under the Privacy Act of 1974 will be employed. The individual will be advised that the procedures of the Privacy Act will be utilized, of the existence and the general effect of the Freedom of Information Act, and the difference between procedures under the two acts (e.g. fees, time limits, access). The request should contain necessary information to verify the identity of the requester (see §1665.2(b)(2)(vi)). In addition, the requester should include any other information which may assist in the rapid identification of the record for which access is being requested (e.g., maiden name, dates of employment, etc.) as well as any other identifying information contained in and required by SSS Notice of Systems of Records.

(ii) If the request for access follows a prior request under §1665.1, the same identifying information need not be included in the request for access if a reference is made to that prior correspondence, or a copy of the SSS response to that request is attached.

(iii) If the individual specifically desires a copy of the record, the request should so specify.

(2) *SSS action on request.* A request for access will ordinarily be answered within 10 days, except when the records manager determines that access cannot be afforded in that time, in which case the requester will be informed of the reason for the delay and an estimated date by which the request will be answered. Normally access will be granted within 30 days from the date the request was received by the Selective Service System. At a minimum, the answer to the request for access shall include the following:

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(i) A statement that there is a record as requested or a statement that there is not a record in the system of records maintained by SSS;

(ii) A statement as to whether access will be granted only by providing copy of the record through the mail; or the address of the location and the date and time at which the record may be examined. In the event the requester is unable to meet the specified date and time, alternative arrangements may be made with the official specified in § 1665.2(b)(1);

(iii) A statement, when appropriate, that examination in person will be the sole means of granting access only when the records manager has determined that it would not unduly impede the requester's right of access;

(iv) The amount of fees charged, if any (see § 1665.6) (Fees are applicable only to requests for copies);

(v) The name, title, and telephone number of the SSS official having operational control over the record; and

(vi) The documentation required by SSS to verify the identity of the requester. At a minimum, SSS's verification standards include the following:

(A) *Current or former SSS employees.* Current or former SSS employees requesting access to a record pertaining to them in a system of records maintained by SSS may, in addition to the other requirements of this section, and at the sole discretion of the official having operational control over the record, have his or her identity verified by visual observation. If the current or former SSS employee cannot be so identified by the official having operational control over the records, identification documentation will be required. Employee identification cards, annuitant identification, drivers licenses, or the *employee copy* of any official personnel document in the record are examples of acceptable identification validation.

(B) *Other than current or former SSS employees.* Individuals other than current or former SSS employees requesting access to a record pertaining to them in a system of records maintained by SSS must produce identification documentation of the type described herein, prior to being granted

access. The extent of the identification documentation required will depend on the type of record to be accessed. In most cases, identification verification will be accomplished by the presentation of two forms of identification. Any additional requirements are specified in the system notices published pursuant to 5 U.S.C. 552a(e)(4).

(C) *Access granted by mail.* For records to be accessed by mail, the records manager shall, to the extent possible, establish identity by a comparison of signatures in situations where the data in the record is not so sensitive that unauthorized access could cause harm or embarrassment to the individual to whom they pertain. No identification documentation will be required for the disclosure to the requester of information required to be made available to the public by 5 U.S.C. 552. When in the opinion of the records manager the granting of access through the mail could reasonably be expected to result in harm or embarrassment if disclosed to a person other than the individual to whom the record pertains, a notarized statement of identity or some similar assurance of identity will be required.

(D) *Unavailability of identification documentation.* If an individual is unable to produce adequate identification documentation the individual will be required to sign a statement asserting identity and acknowledging that knowingly or willfully seeking or obtaining access to a record about another person under false pretenses may result in a fine of up to \$5,000. In addition, depending upon the sensitivity of the records sought to be accessed, the official having operational control over the records may require such further reasonable assurances as may be considered appropriate e.g., statements of other individuals who can attest to the identity of the requester. No verification of identity will be required of individuals seeking access to records which are otherwise available to any person under 5 U.S.C. 552, Freedom of Information Act.

(E) *Access by the parent of a minor, or legal guardian.* A parent of a minor, upon *presenting suitable personal identification*, may access on behalf of the minor *any record pertaining to the minor*

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maintained by SSS in a system of records. A legal guardian may similarly act on behalf of an individual declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction. *Absent a court order or consent*, a parent or legal guardian has no absolute right to have access to a record about a child. Minors are not precluded from exercising on their own behalf rights given to them by the Privacy Act.

(F) *Granting access when accompanied by another individual.* When an individual requesting access to his or her record in a system of records maintained by SSS wishes to be accompanied by another individual during the course of the examination of the record, the individual making the request shall submit to the official having operational control of the record, a signed statement authorizing that person access to the record.

(G) *Denial of access for inadequate identification documentation.* If the official having operational control over the records in a system of records maintained by SSS determines that an individual seeking access has not provided sufficient identification documentation to permit access, the official shall consult with the records manager prior to finally denying the individual access.

(H) *Review of decision to deny access.* Whenever the records manager determines, in accordance with the procedures herein, that access cannot be granted the response will also include a statement of the procedures to obtain a review of the decision to deny in accord with §1665.5.

(vii) *Exceptions.* (A) Nothing in these regulations shall be construed to entitle an individual the right to access to any information compiled in reasonable anticipation of a civil action or proceeding. The mere fact that records in a system of records are frequently the subject of litigation does not bring those systems of records within the scope of this provision. This provision is not intended to preclude access by an individual to the records which are available to that individual under the other processes such as the Freedom of Information Act or the rules of civil procedure.

(B) Within any system of records pertaining to possible violations of the Military Selective Service Act, the identity of or any information pertaining to any individual who provides information relating to a suspected violator will not be revealed to the suspected violator. This exemption is made under the provision of 5 U.S.C. 552a(k)(2).

§ 1665.3 Access to the accounting of disclosures from records.

Rules governing the granting of access to the accounting of disclosure are the same as those for granting accesses to the records (including verification of identity) outlined in §1665.2.

§ 1665.4 Requests to amend records.

(a) *Requirement for written requests.* Individuals desiring to amend a record that pertains to them in a system of records maintained by SSS must submit their request in writing in accord with the procedures set forth herein. Records not subject to the Privacy Act of 1974 will not be amended in accord with these provisions. However, individuals who believe that such records are inaccurate may bring this to the attention of SSS.

(b) *Procedures.* (1)(i) The requests to amend a record in a system of records shall be addressed to the records manager. Included in the request shall be the name of the system and a brief description of the record proposed for amendment. In the event the request to amend the record is the result of the individual's having gained access to the record in accordance with the provisions concerning access to records as set forth above, copies of previous correspondence between the requester and SSS will serve in lieu of a separate description of the record.

(ii) When the individual's identity has been previously verified pursuant to §1665.2(b)(2)(vi), further verification of identity is not required as long as the communication does not suggest that a need for verification is present. If the individual's identity has not been previously verified, SSS may require identification validation as described in §1665.2(b)(2)(vi). Individuals desiring assistance in the preparation of a request to amend a record should

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contact the records manager at the address cited above.

(iii) The exact portion of the record the individual seeks to have amended should be clearly indicated. If possible, the proposed alternative language should also be set forth, or at a minimum, the facts which the individual believes are not accurate, relevant, timely, or complete should be set forth with such particularity as to permit SSS not only to understand the individual's basis for the request, but also to make an appropriate amendment to the record.

(iv) The request must also set forth the reasons why the individual believes his record is not accurate, relevant, timely, or complete. In order to avoid the retention by SSS of personal information merely to permit verification of records, the burden of persuading SSS to amend a record will be upon the individual. The individual must furnish sufficient facts to persuade the official in charge of the system of the inaccuracy, irrelevancy, timeliness or incompleteness of the record.

(v) Incomplete or inaccurate requests will not be rejected categorically. The individual will be asked to clarify the request as needed.

(2) *SSS action on the request.* To the extent possible, a decision, upon a request to amend a record will be made within 10 days, (excluding Saturdays, Sundays, and legal Federal holidays). The response reflecting the decisions upon a request for amendment will include the following:

(i) The decision of the Selective Service System whether to grant in whole, or deny any part of the request to amend the record.

(ii) The reasons for determination for any portion of the request which is denied.

(iii) The name and address of the official with whom an appeal of the denial may be lodged.

(iv) The name and address of the official designated to assist, as necessary and upon request of, the individual making the request in preparation of the appeal.

(v) A description of the review of the appeal with SSS (see § 1665.5).

(vi) A description of any other procedures which may be required of the individual in order to process the appeal.

(3) If the nature of the request for the correction of the system of records precludes a decision within 10 days, the individual making the request will be informed within 10 days of the extended date for a decision. Such a decision will be issued as soon as it is reasonably possible, normally within 30 days from the receipt of the request (excluding Saturdays, Sundays, and legal Federal holidays) unless unusual circumstances preclude completing action within that time. If the expected completion date for the decision indicated cannot be met, the individual will be advised of the delay of a revised date when the decision may be expected to be completed.

§ 1665.5 Request for review.

(a) Individuals wishing to request a review of the decision by SSS with regard to any initial request to access or amend a record in accord with the provisions of §§ 1665.2 and 1665.4, should submit the request for review in writing and, to the extent possible, include the information specified in § 1665.5(b). Individuals desiring assistance in the preparation of their request for review should contact the records manager at the address provided herein.

(b) The request for review should contain a brief description of the record involved or in lieu thereof, copies of the correspondence from SSS in which the request to access or to amend was denied and also the reasons why the requester believes that access should be granted or the disputed information amended. The request for review should make reference to the information furnished by the individual in support of his claim and the reasons as required by §§ 1665.2 and 1665.4 set forth by SSS in its decision denying access or amendment. Appeals filed without a complete statement by the requester setting forth the reasons for review will, of course, be processed. However, in order to make the appellate process as meaningful as possible, the requester's disagreement should be set forth in an understandable manner. In order to avoid the unnecessary retention of personal information, SSS reserves the

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right to dispose of the material concerning the request to access or amend a record if no request for review in accord with this section is received by SSS within 180 days of the mailing by SSS of its decision upon an initial request. A request for review received after the 180 day period may, at the discretion of the records manager, be treated as an initial request to access or amend a record.

(c) The request for review should be addressed to the Director of Selective Service.

(d) The Director of Selective Service will inform the requester in writing of the decision on the request for review within 20 days (excluding Saturdays, Sundays, and legal federal holidays) from the date of receipt by SSS of the individual's request for review unless the Director extends the 20 days period for good cause. The extension and the reasons therefor will be sent by SSS to the requester within the initial 20 day period. Such extensions should not be routine and should not normally exceed an additional thirty days. If the decision does not grant in full the request for amendment, the notice of the decision will provide a description of the steps the individual may take to obtain judicial review of such a decision, a statement that the individual may file a concise statement with SSS setting forth the individual's reasons for his disagreement with the decision and the procedures for filing such a statement of disagreement. The Director of Selective Service has the authority to determine the *conciseness* of the statement, taking into account the scope of the disagreement and the complexity of the issues. Upon the filing of a proper, concise statement by the individual, any subsequent disclosure of the information in dispute will be clearly noted so that the fact that the record is disputed is apparent, a copy of the concise statement furnished and a concise statement by SSS setting forth its reasons for not making the requested changes, if SSS chooses to file such a statement. A notation of a dispute is required to be made only if an individual informs the agency of his disagreement with SSS's determination in accord with §1665.5(a), (b) and (c). A copy of the individual's state-

ment, and if it chooses, SSS's statement will be sent to any prior transferee of the disputed information who is listed on the accounting required by 5 U.S.C. 552a(c). If the reviewing official determines that the record should be amended in accord with the individual's request, SSS will promptly correct the record, advise the individual, and inform previous recipients if an accounting of the disclosure was made pursuant to 5 U.S.C. 552a(c). The notification of correction pertains to information actually disclosed.

§ 1665.6 Schedule of fees.

(a) *Prohibitions against charging fees.* Individuals will not be charged for:

(1) The search and review of the record.

(2) Any copies of the record produced as a necessary part of the process of making the record available for access, or

(3) Any copies of the requested record when it has been determined that access can only be accomplished by providing a copy of the record through the mail.

(4) Where a registrant has been charged under the Military Selective Service Act and must defend himself in a criminal prosecution, or where a registrant submits to induction and thereafter brings habeas corpus proceedings to test the validity of his induction, the Selective Service System will furnish to him, or to any person he may designate, one copy of his Selective Service file free of charge.

(b) *Waiver.* The Director of Selective Service may at no charge, provide copies of a record if it is determined the production of the copies is in the interest of the Government.

(c) *Fee schedule and method of payment.* Fees will be charged as provided below except as provided in paragraphs (a) and (b) of this section.

(1) *Duplication of records.* Records will be duplicated at a rate of \$.25 per page.

(2) Fees should be paid in full prior to issuance of requested copies. In the event the requester is in arrears for previous requests, copies will not be provided for any subsequent request until the arrears have been paid in full.

(3) Remittance shall be in the form of cash, a personal check or bank draft

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drawn on a bank in the United States, or postal money order. Remittances shall be made payable to the order of the Selective Service System and mailed or delivered to the records manager, Selective Service System, Arlington, VA 22209-2425.

(4) A receipt of fees paid will be given upon request.

[47 FR 7224, Feb. 18, 1982; 69 FR 1525, Jan. 9, 2004]

§ 1665.7 Information available to the public or to former employers of registrants.

(a) Each area office maintains a classification record which contains the name, Selective Service number, and the current and past classifications for each person assigned to that board. Information in this record may be inspected at the area office at which it is maintained.

(b) Any compensated employee of the Selective Service System may disclose to the former employer of a registrant who is serving in or who has been discharged from the Armed Forces whether the registrant has or has not been discharged and, if discharged, the date thereof, upon reasonable proof that the registrant left a position in the employ of the person requesting such information in order to serve in the Armed Forces.

(c) Whenever an office referred to in this section is closed, the request for information that otherwise would be submitted to it should be submitted to the National Headquarters, Selective Service System, Arlington, VA 22209-2425.

[47 FR 7224, Feb. 18, 1982; 69 FR 1525, Jan. 9, 2004]

§ 1665.8 Systems of records exempted from certain provisions of this act.

Pursuant to 5 U.S.C. 552a(k)(2), the Selective Service System will not reveal to the suspected violator the informant's name or other identifying information relating to the informant.

[47 FR 24543, June 7, 1982]

PART 1690 [RESERVED]

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PART 1697—SALARY OFFSET

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AUTHORITY: 5 U.S.C. 5514, and 5 CFR part 550, subpart K.

SOURCE: 54 FR 48098, Nov. 21, 1989, unless otherwise noted.

§ 1697.1 Purpose and scope.

(a) This regulation provides procedures for the collection by administrative offset of a federal employee's salary without his/her consent to satisfy certain debts owed to the federal government. These regulations apply to all federal employees who owe debts to the Selective Service System and to current employees of the Selective Service System who owe debts to other federal agencies. This regulation does not apply when the employee consents to recovery from his/her current pay account.

(b) This regulation does not apply to debts or claims arising under:

(1) The Internal Revenue Code of 1954, as amended, 26 U.S.C. 1 *et seq.*;

(2) The Social Security Act, 42 U.S.C. 301 *et seq.*;

(3) The tariff laws of the United States; or

(4) Any case where a collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108).

(c) This regulation does not apply to any adjustment to pay arising out of an employee's selection of coverage or a change in coverage under a federal benefits program requiring periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less.